

AMENDED IN SENATE SEPTEMBER 9, 2003

AMENDED IN SENATE AUGUST 26, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 459

Introduced by Assembly Member Negrete McLeod

February 14, 2003

An act to amend Sections 22816.7, 22816.8, and 22857 of, *and to add Section 20057.2 to, and to repeal Sections 22754.4, 22810.1, and 22810.3 of, Section 20057.2 to*, the Government Code, relating to the Public Employees' Medical and Hospital Care Act, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 459, as amended, Negrete McLeod. Public Employees' Medical and Hospital Care Act.

(1) The Public Employees' Medical and Hospital Care Act permits a public agency, as defined, to participate in, and make its employees members of, the Public Employees' Retirement System by contracting with the Board of Administration of the Public Employees' Retirement System. *To qualify as a public agency for that purpose, an organization must obtain a written advisory opinion from the United States Department of Labor, as specified. Employer and employee contributions to the retirement system are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.*

This bill would include within the definition of “public agency” for these purposes, *and would exempt from that qualification requirement, any nonprofit corporation that meets specified membership requirements and that obtains a specified whose membership includes employees of public agencies. The bill would also provide that a nonprofit organization that applies to contract with the system on or after July 1, 2006, may be required, by the board, to obtain an alternative written advisory opinion from the United States Department of Labor, as specified. By expanding the class of persons who may make contributions to the Public Employees’ Retirement Fund, the bill would make an appropriation.*

~~(2) The Public Employees’ Medical and Hospital Care Act permits an annuitant whose retirement allowance is insufficient to pay his or her contributions for the plan in which he or she is enrolled, to retain that coverage by paying a complementary annuitant premium, as specified.~~

~~This bill would delete those provisions.~~

~~(3)~~

(2) The Public Employees’ Medical and Hospital Care Act specifies that a Member of the Legislature, an elective constitutional officer of the state, or an inactive member of the Legislators’ Retirement System, as specified, who has at least 8 years of credited service and meets other specified criteria, is eligible to enroll in the Public Employees’ Retirement System.

This bill would instead require 6 years of credited service to qualify for this eligibility.

~~(4)~~

(3) The Public Employees’ Medical and Hospital Care Act provides that a contracting agency may establish a lesser monthly employer contribution for annuitants, if that contribution is annually increased by 5% of the monthly employer contribution, as specified.

This bill would delete the annual 5% increase requirement, and would instead permit the lesser monthly employer contribution to be based on a yearly calculation, as specified.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20057.2 is added to the Government
- 2 Code, to read:



1 20057.2. Notwithstanding Section 20057.1, the following
2 applies:

3 (a) “Public agency” also includes any nonprofit corporation
4 whose membership includes employees of public agencies defined
5 in Section 20056.

6 (b) The board may require any organization referred to in
7 subdivision (a) that first makes a request on or after January 1,
8 2006, to enter into a contract with the board pursuant to Section
9 20460, to obtain a written advisory opinion from the United States
10 Department of Labor stating that the participation of the officers
11 and employees of the organization in this system does not affect
12 this system’s exemption as a governmental plan under the federal
13 Employee Retirement Income Security Act of 1974 (29 U.S.C.
14 Sec. 1001 et seq.), in order to qualify as a public agency within the
15 meaning of this part.

16 ~~SEC. 2. Section 22754.4 of the Government Code is repealed.~~

17 ~~SEC. 3. Section 22810.1 of the Government Code is repealed.~~

18 ~~SEC. 4. Section 22810.3 of the Government Code is repealed.~~

19 ~~SEC. 5.~~

20 SEC. 2. Section 22816.7 of the Government Code is amended
21 to read:

22 22816.7. (a) As used in this section:

23 (1) “Exempt employee” means an employee exempt from
24 civil service pursuant to subdivision (a), (c), (f), or (g) of Section
25 4 of Article VII of the California Constitution, or an exempt
26 employee of the Attorney General or Legislative Counsel
27 appointed pursuant to subdivision (m) of Section 4 of Article VII
28 of the California Constitution.

29 (2) Notwithstanding Sections 22754, 22810, and 22953,
30 “annuitant” means:

31 (A) A Member of the Legislature or an elective officer of the
32 state whose office is provided by the Constitution, who has at least
33 six years of credited service, who permanently separates from state
34 service both on or after January 1, 1988, and not more than 10 years
35 before or 10 years after he or she attains his or her minimum age
36 for service retirement under any state retirement system, who
37 retires more than 120 days after separation from employment, and
38 who is receiving any retirement allowance under any state
39 retirement system to which the state makes contributions.

1 (B) An exempt employee, as defined in paragraph (1) of this
2 subdivision who has at least 10 years of credited state service
3 which includes at least two years of credited service while such an
4 exempt employee, who permanently separates from state service
5 both on or after January 1, 1988, and not more than 10 years before
6 or 10 years after he or she attains his or her minimum age for
7 service retirement under any state retirement system, who retires
8 more than 120 days after separation from employment, and who
9 is receiving any retirement allowance under any state retirement
10 system to which the state makes contributions.

11 (3) Notwithstanding Sections 22754, 22810, and 22953, “state
12 employee” means:

13 (A) A Member of the Legislature or an elective officer of the
14 state whose office is provided by the Constitution, who has at least
15 six years of credited service, who permanently separates from state
16 service both on or after January 1, 1988, and more than 10 years
17 before he or she would attain his or her minimum age for service
18 retirement under any state retirement system, but who elects
19 pursuant to law to remain a member of a state retirement system
20 supported, in whole or in part, by state funds, other than the
21 University of California Retirement System.

22 (B) An exempt employee, as defined in paragraph (1) of this
23 subdivision who has at least 10 years of credited state service
24 which includes at least two years of credited service while such an
25 exempt employee, who permanently separates from state service
26 both on or after January 1, 1988, and more than 10 years before he
27 or she would attain his or her minimum age for service retirement
28 under any state retirement system, but who elects pursuant to law
29 to remain a member of a state retirement system supported, in
30 whole or in part, by state funds, other than the University of
31 California Retirement System.

32 (b) Any person who becomes an annuitant, as defined in
33 subdivision (a), may, upon assuming payment of any employee
34 contributions, enroll in a health benefits plan and dental care plan
35 without discrimination as to premium rates or benefit coverage at
36 which time the state shall assume payment of employer
37 contributions for that insurance coverage and the person shall
38 thereafter be deemed an annuitant for the purposes of this part and
39 Part 6 (commencing with Section 22950), notwithstanding
40 Sections 22754, 22810, and 22953.



1 (c) A state employee, as defined by subdivision (a), who was
 2 on the effective date of his or her permanent separation from state
 3 service enrolled in a health benefits plan or dental care plan under
 4 this part or Part 6 (commencing with Section 22950), shall, upon
 5 the permanent separation from state service, be entitled to have his
 6 or her coverage continued without discrimination as to premium
 7 rates or benefits coverage upon assuming payment of the
 8 contributions otherwise required of the former employer on
 9 account of his or her enrollment and any employee contribution
 10 during the period he or she is not yet receiving his or her retirement
 11 allowance. Any election to continue coverage under this
 12 subdivision shall be made within 60 days of permanent separation.
 13 The state employee shall also pay an additional 2 percent of the
 14 contribution payments required to be paid by the state employee
 15 pursuant to this section to cover the administrative costs incurred
 16 by the public retirement system and the Department of Personnel
 17 Administration in administering the program provided by this
 18 section.

19 (d) Upon retirement and receipt of retirement allowance, a state
 20 employee described in subdivision (c) may elect to continue to be
 21 covered by the health benefits plan and dental care plan without
 22 discrimination as to premium rates or benefits coverage at which
 23 time the state shall assume payment of employer contributions for
 24 that insurance coverage and the person shall thereafter be deemed
 25 an annuitant for the purposes of this part and Part 6 (commencing
 26 with Section 22950).

27 (e) A person who meets all of the conditions in subparagraph
 28 (A) or (B) of paragraph (2) of subdivision (a), other than the
 29 condition of receiving a retirement allowance under a state
 30 retirement system to which the state makes contributions, may
 31 elect to have his or her coverage continued, within 60 days of
 32 permanent separation from state service, in a health plan and dental
 33 care plan provided to annuitants. Upon that election, the coverage
 34 shall continue from the date of the permanent separation to the date
 35 of retirement unless the coverage is terminated. For those who
 36 have separated between January 1, 1989, and the effective date of
 37 the amendment of this section made in 1990 in the 1989–90
 38 Regular Session, the election to enroll in a health plan and dental
 39 care plan shall be made within three months after the effective date
 40 the amendment of this section made in 1990 in the 1989–90



1 Regular Session. The health and dental benefits shall be without
2 discrimination as to premium rates or benefits coverage upon
3 assuming payment of the contributions otherwise required of the
4 former employer on account of his or her enrollment and any
5 employee contribution during the period he or she is not yet
6 receiving his or her retirement allowance. The individual shall also
7 pay an additional 2 percent of the contribution payments required
8 to be paid pursuant to this subdivision to cover the administrative
9 costs incurred by the public retirement systems, the Department of
10 Personnel Administration, the Senate Committee on Rules, and
11 the Assembly Committee on Rules, in administering the benefits
12 provided by this subdivision. A person who receives coverage
13 pursuant to this subdivision who subsequently terminates that
14 coverage shall not be allowed to reenroll pursuant to this
15 subdivision. Continuation of coverage or enrollment or
16 termination under this subdivision does not affect an annuitant's
17 rights under subdivision (b). The benefits authorized by
18 subdivision (b) and this subdivision are separate and distinct
19 benefits.

20 (f) There is no duty to locate or notify any person who may be
21 eligible to enroll pursuant to this section.

22 ~~SEC. 6.~~

23 *SEC. 3.* Section 22816.8 of the Government Code is amended
24 to read:

25 22816.8. Any person who is an inactive member of the
26 Legislators' Retirement System pursuant to Section 9355.2 and
27 who has at least six years of service credit may, upon assuming
28 payment of all employee and employer contributions and an
29 additional 2 percent thereof for the administrative cost incurred by
30 the board and the Department of Personnel Administration in
31 administering this section, enroll in the health benefits plan and
32 dental care plan provided to members of the Legislators'
33 Retirement System and, upon retirement shall thereafter be
34 deemed an annuitant for purposes of this part and Part 6
35 (commencing with Section 22950), notwithstanding Sections
36 22754, 22810, and 22953.

37 Any person who, on January 1, 1989, is eligible to elect to enroll
38 pursuant to this section shall exercise that election on or before
39 April 30, 1989.

1 No person who enrolls pursuant to this section and subsequently
2 terminates that enrollment may reenroll pursuant to this section.

3 ~~SEC. 7.~~

4 *SEC. 4.* Section 22857 of the Government Code is amended
5 to read:

6 22857. A contracting agency including, but not limited to, a
7 school district, county board of education, personnel commission
8 of a school district, or a county superintendent of schools that has
9 elected to be subject to this part:

10 (a) Shall by resolution establish the employer contribution for
11 employees and the employer contribution for annuitants. The
12 resolution shall be filed with the board and the contribution shall
13 be effective at the time that is provided in board regulations.

14 (b) (1) May, notwithstanding the equal contribution
15 requirement of Section 22825, establish a lesser monthly
16 employer contribution for annuitants than for employees,
17 provided that the monthly contribution for annuitants equals an
18 amount not less than the number of years that the contracting
19 agency has been subject to this section multiplied by 5 percent of
20 the current monthly employer contribution for employees, until
21 the time that the employer contribution for annuitants equals the
22 employer contribution paid for employees.

23 (2) This subdivision shall only apply to agencies that first
24 become subject to this part on or after January 1, 1986.

